IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 183 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT STATE ROAD TRANSPORT CORPORATION - Appellant(s)
Versus
PURSHOTTAM AMARABHAI SOLANKI - Defendant(s)

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Appearance :
MR UI VYAS for Appellant(s) : 1,
NOTICE SERVED for Defendant(s) : 1,
MR JB SHAH for Defendant(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 13/02/2007

ORAL JUDGMENT

1. The appellant by this appeal has challenged the judgment and award made by MACT No. VIII[Auxi.] Ahmedabad in MACP No. 387 of 1987 (II) dated 16th October, 1996,

whereby the Tribunal has awarded a sum of Rs.52,000 together with interest at the rate of 12% per annum from the date of the petition till realization and proportionate costs. The appellant is Gujarat State Road Transport Corporation, whereas the respondent was serving in the Ahmedabad Municipal Transport Service. According to the respondent on the date of the accident, he was injured by the bus belonging to the appellant around 4:00 o'clock in the morning. The date of the accident is 9th June, 1987. According to the claimant, the door of the bus was kept open which hit him and caused injuries. He, therefore, sought compensation of Rs.89,000=00. The injuries suffered by him were quite serious and he had remained in hospital for several days.

2. Before the Tribunal, the parties led evidence, documentary as well as oral. According to the appellant, the claimant had filed false claim and he had not received any injury by the vehicle belonging to the appellant. As against that the respondent claimant contended that since the bus belonging to the appellant was driven in a negligent manner by keeping the door open, he sustained injuries.

3. The Tribunal on the basis of the material produced before it, held that the accident occurred due

to the negligence of driver of ST bus belonging to the appellant and awarded a sum of Rs.52,000=00. Hence, this appeal.

4. Mr. U. I. Vyas learned advocate for the appellant has heavily relied on the documentary evidence and in particular, the First Information Report lodged by the respondent himself. It is then submitted by Mr. Vyas that in view of the contents of the FIR it is clear that there was no accident caused by the bus and the appellant was wrongly impleaded in the proceedings. He has further submitted that no details of the offending vehicle have been furnished by the respondent and that would create grave doubt about the correctness of the version of the accident given by the respondent. Mr. J. B. Shah learned advocate who has filed his appearance for the respondent had never remained present, except on one occasion when the matter was partly heard. He sought adjournment which was granted but thereafter the matter has been listed for hearing several times, but he has not remained present. Hence, the appeal is now disposed of on its merits, in his absence.

5. According to the respondent he received injuries because the door of the ST bus dashed against him, causing him serious injuries. This case has been believed

by the Tribunal. However, the earlier version given before the Police by the respondent claimant is that he was standing near the gate of workshop and all of a sudden when the bus took turn the door was opened and it dashed against the respondent causing him injuries. After considerable period, the respondent has come out with this case. However, it is to be noted that nowhere he has given any detail about the offending vehicle, except that it was the bus of the appellant. He is an employee of AMTS and, therefore, he is fairly conversant with the transport service. He ought to have immediately noted down the number and the details of the person driving the vehicle, but that has not been done. It is, therefore, obvious that whatever, he has stated now before the Tribunal is an after thought and the story has been built up with a view to obtain compensation. To earn compensation on false facts, cannot be permitted. This appeal therefore deserves to be allowed. Of course, it is noted that the accident is of June, 1987, at that time, the respondent claimant was aged about 48 years. The Tribunal has permitted him to withdraw 30% of the entire amount deposited by the appellant and the balance amount is invested in the Bank. In this view of the matter, though the appeal is allowed, the appellant is directed not to recover 30% of the amount of compensation from the respondent claimant. The Tribunal is now directed to

withdraw the amount from the concerned bank and hand it over to the appellant by A/c payee cheque together with the interest accrued thereon.

In the result the appeal is partly allowed.

R & P to be re-transmitted to the Tribunal forthwith.

[Akshay H. Mehta, J.]

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